



# PROPOSED RULE MAKING

**CR-102 (June 2012)**

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

**Agency:** Department of Ecology AO #13-09

☒ **Preproposal Statement of Inquiry was filed as WSR 13-22-088 ; or**  
☐ **Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or**  
☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**

☒ **Original Notice**  
☐ **Supplemental Notice to WSR \_\_\_\_\_**  
☐ **Continuance of WSR \_\_\_\_\_**

**Title of rule and other identifying information:** The Department of Ecology (Ecology) proposes to repeal existing chapter 173-322 WAC, Remedial Action Grants and Loans, and adopt new chapter 173-322A WAC, Remedial Action Grants and Loans. The new chapter would replace the repealed chapter. The new chapter would modify the existing program of grants and loans to local governments for investigating and cleaning up hazardous waste sites.

**Hearing location(s):**

See Attachment A.

**Submit written comments to:**

Name: Adrienne Dorrah  
 Address: Department of Ecology  
 Toxics Cleanup Program  
 PO Box 47600  
 Olympia, WA 98504-7600  
 E-mail: [RAGrule@ecy.wa.gov](mailto:RAGrule@ecy.wa.gov)  
 Fax: (360) 407-7154 **by June 6, 2014**

**Assistance for persons with disabilities:**

Contact Adrienne Dorrah at (360) 407-7195 by May 16, 2014.  
 Persons with hearing loss, call TTY (711) for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

**Date of intended adoption:** July 30, 2014  
 (Note: This is **NOT** the **effective** date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of the proposal is to:

1. Implement changes to the Model Toxics Control Act, Chapter 70.105D RCW, passed by the Washington State Legislature in 2013 affecting the remedial action grant and loan program. The legislation establishes new funding priorities for the program and directs Ecology to make several changes to the program, including:
  - Enter into extended grant agreements with local governments for projects exceeding \$20 million and occurring over multiple budget cycles. Such projects would receive priority for grant funds.
  - Provide integrated planning grants to local governments for studies that facilitate the cleanup and reuse of contaminated sites.
  - Eliminate methamphetamine lab site assessment and cleanup grants and derelict vessel remedial action grants as separate types of grants.
  - Provide area-wide groundwater remedial action grants without requiring local governments to be a potentially liable person or seek reimbursement of grant funds from such persons.
  - Enter into grant agreements with local governments before they acquire or secure access to a property, provided they include a schedule.
  - Provide periodic reimbursement of the costs of independent remedial actions.
  - Implement cash management principles to ensure budgeted funds are put to work.
2. Make other appropriate changes to the requirements governing remedial action grants and loans (such as updating funding limits and recipient match requirements).
3. Streamline existing requirements, improve rule clarity, and improve consistency with other requirements in this chapter or with other state and federal laws and rules (such as coordinating with agency-wide efforts to streamline and standardize grant processes).

**Reasons supporting proposal:** The proposal is necessary to:

1. Comply with changes to the Model Toxics Control Act, Chapter 70.105D RCW, passed by the Washington State Legislature in 2013, and continue to implement those changes after June 30, 2014.
2. Encourage and expedite the cleanup and reuse of contaminated sites by local governments.
3. Make the rule easier to use and understand.

The proposed replacement of chapter 173-322 WAC with chapter 173-322A WAC is necessary to streamline and clarify the rule.

**Statutory authority for adoption:** Chapter 70.105D RCW

**Statute being implemented:** Chapter 70.105D RCW

**Is rule necessary because of a:**

Federal Law? ☐ Yes ☒ No  
 Federal Court Decision? ☐ Yes ☒ No  
 State Court Decision? ☐ Yes ☒ No

If yes, CITATION:

**DATE** 4/15/14

**NAME** Polly Zehm

**SIGNATURE**

**TITLE** Deputy Director, Department of Ecology

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
 STATE OF WASHINGTON  
 FILED

**DATE:** April 15, 2014

**TIME:** 1:31 PM

**WSR 14-09-052**

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

N/A

**Name of proponent:** Department of Ecology

- ☐ Private  
☐ Public  
☒ Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting.....Michael Feldcamp	Department of Ecology – Lacey, WA	(360) 407-7531
Implementation....Angie Wirkkala	Department of Ecology – Lacey, WA	(360) 407-7219
Enforcement.....Jim Pendowski	Department of Ecology – Lacey, WA	(360) 407-7177

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

- ☐ Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

Phone: (     ) \_\_\_\_\_

Fax: (     ) \_\_\_\_\_

E-mail: \_\_\_\_\_

- ☒ No. Explain why no statement was prepared.

A small business economic impact statement is not required under chapter 19.85 RCW because:

1. The persons impacted by the proposed rule changes are government bodies and therefore no businesses are impacted. RCW 19.85.030(1)(a); and
2. The proposed rule changes relate only to internal governmental operations that are not subject to violation by a nongovernment party. RCW 19.85.025(3), based on RCW 34.05.310(4)(b).

A school district fiscal impact statement is not required under chapter 28A.305 RCW because the rule is proposed by the Department of Ecology, not the Office of the Superintendent of Public Instruction.

**Is a cost-benefit analysis required under RCW 34.05.328?**

- ☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone: (     ) \_\_\_\_\_

Fax: (     ) \_\_\_\_\_

E-mail: \_\_\_\_\_

- ☒ No: Please explain:

A cost-benefit analysis is not required under RCW 34.05.328 because:

1. The proposed rule changes relate only to internal governmental operations that are not subject to violation by a nongovernment party. RCW 34.05.328(5)(b)(ii); and
2. The proposed rule changes only set forth the agency's interpretation of statutory provisions, and violation of the rule does not subject a person to a penalty or sanction. RCW 34.05.328(5)(c)(ii) and (iii).

## Attachment A – Public Hearing Time and Location

Ecology will hold one public hearing on this rule proposal. The hearing will begin with a short presentation followed by a question and answer (Q&A) session. Testimony will start at the end of the Q&A session.

**Date:** May 29, 2014

**Time:** 10:00 a.m.

**Location:** Department of Ecology  
Headquarters  
300 Desmond Drive SE  
Lacey, WA 98503

**Webinar:** Ecology is also offering the presentation, Q&A session, and public hearing through a webinar. A webinar is online meeting forum that you can join from any computer using internet access. To participate and provide comments through the webinar, you also need to have a phone or a computer with phone modem capability. For more information about the webinar and instructions on how to join and participate through the webinar, visit: [www.ecy.wa.gov/programs/tcp/regs/wac173322/1309-proposal.html](http://www.ecy.wa.gov/programs/tcp/regs/wac173322/1309-proposal.html).

**Comments:** During the public hearing, Ecology will accept comments:

1. At the hearing location; and
2. Through the webinar.